IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CASE NO.: **CWP No. 6980 of 2006**

DATE OF DECISION: July 27, 2006

GOPAL SINGH ...PETITIONER

VERSUS

DIRECTOR, RURAL DEVELOPMENT ETC. ...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA.
HON'BLE MRS. JUSTICE NIRMAL YADAV.

PRESENT: MR. ASHOK SINGLA, ADVOCATE FOR THE PETITIONER.

ASHUTOSH MOHUNTA, J.

The challenge in the writ petition is to the order dated 23.8.2004, (Annexure P-4) passed by the Collector and the order dated 9.12.2005(Annexure P-5) passed by the Commissioner, whereby the land in dispute is held to be Shamlat Deh and the Gram Panchayat has been held to be its owner.

It is the case of the petitioner that the land in dispute has been recorded as Shamlat Deh Hasab Rasad Rakba Khewat and is possessed by Makbuja Malkan. Such an entry existed in the revenue record in 1953-54 when Khatauni Istmal (Annexure P-1) was prepared. The contention of the petitioner is that he being the member of the propriety body in the village, the land in dispute is owned by him and not owned by the Gram Panchayat. On this basis, it is contended that the Gram Panchayat has no right to seek his ejectment from the land in dispute and that the orders of his ejectment passed by respondent Nos.1 & 2 are wholly erroneous and are liable to be set aside.

We have heard the counsel for the petitioner and examined the case meticulously.

Undisputedly, in the jamabandi for the year 1997-98, the Gram Panchayat has been recorded to be the owner of the land in dispute. It is also undisputed position that on 17.9.2002, the Gram Panchayat had got a demarcation done and the petitioner alongwith other similarly situated persons were found to be in illegal possession of the land in dispute. It has also come in record that there exists one khui (well) in the land which has illegally been possessed by the petitioner. The khui was being used for the common purposes in the village. The khal for drinking water for the cattle also exists there. On the other hand, the petitioner has failed to adduce any evidence to prove his ownership over the land in dispute. Merely, that he is the member of propriety body of the village does not make him the exclusive owner of the land in dispute. Apart from this, even one of the similarly situated persons namely, Harpal Singh son of Karnail Singh has admitted before the Commissioner-respondent No.1 on 9.12.2005, that the Gram Panchayat is the owner of the land in dispute and the said Harpal Singh has consequently, surrendered his possession over the land which was in his possession.

All the aforementioned facts clearly prove that the land in dispute is Shamlat Deh and the Gram Panchayat is its owner. The petitioner has rightly been ordered to be ejected from there. In the light of the above discussion, we do not find any merit in the writ petition and the same is dismissed.

(ASHUTOSH MOHUNTA)
JUDGE

July 27, 2006
Gulati

(NIRMAL YADAV)
JUDGE